

SENATE BILL No. 1

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-9.

Synopsis: Campaign finance. Provides that a candidate or a committee may not use money received as a campaign contribution for: (1) payment of a criminal fine or a civil judgment or penalty; (2) satisfaction of personal debts, other than campaign loans; (3) purchase of, or installment payments for, a motor vehicle; (4) mortgage payments, rental payments, furnishings, renovations, or improvement expenses for a permanent residence; (5) payments that clearly exceed the fair market value of the item or service purchased; or (6) any other primarily personal purpose. Provides that campaign contributions may be used to lease a vehicle during a campaign if the vehicle will be used for campaign purposes. Provides that a person who makes expenditures
(Continued next page)

Effective: January 1, 1999.

Skillman

January 6, 1998, read first time and referred to Committee on Elections.

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Digest Continued

of at least \$100 within 90 days of an election or a nomination to advocate the election or defeat of a clearly identified candidate or the approval or defeat of a specific public question must make reports of those expenditures. Defines when a candidate is clearly identified and the words that must be used to advocate the election, approval, or defeat of a candidate or a public question. Requires the report to be made to the Indiana election commission (for expenditures relating to candidates for state office, legislative office, or the outcome of a statewide public question) or to a county election board (for expenditures relating to candidates for local office or the outcome of a local public question). Provides that contributions that are required to be reported by a candidate or a committee are not required to be reported as expenditures by the person making the contribution. Provides that an individual is not required to report volunteer services accepted by a candidate, a candidate's committee, a regular party committee, or a political action committee as an expenditure. Provides that a person who is required to file an expenditure report must place a statement in all advertising purchased or materials published stating that the money used to purchase the advertising or materials has been reported by the person as required under Indiana law. Requires the Indiana election commission and a county election board to assess a civil penalty of \$50 for each day that the report is late (but not more than an aggregate of \$1,000) against a person who fails to file a report as required. Provides that the Indiana election commission or a county election board may assess a civil penalty of not more than \$1,000 against a person who is required to file a report and who fails to include the required statement in advertising or materials.

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Introduced

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

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SENATE BILL No. 1

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 3-9-3-4, AS AMENDED BY P.L.3-1995,
2 SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 1999]: Sec. 4. (a) Money received by a candidate or
4 committee as a contribution may be used only:
5 (1) to defray any expense reasonably related to the person's or
6 committee's:
7 (A) campaign for federal, state, legislative, or local office;
8 (B) continuing political activity; or
9 (C) activity related to service in an elected office;
10 (2) to make an expenditure to any national, state, or local
11 committee of any political party or another candidate's committee;
12 or
13 (3) upon dissolution of a committee, in a manner permitted under
14 IC 3-9-1-12.
15 (b) Money received by a candidate or committee as a contribution



1 may not be used for:

- 2 (1) **payment of a criminal fine or a civil judgment or penalty;**
 3 (2) **satisfaction of personal debts, other than campaign loans;**
 4 (3) **purchase of, or installment payments for, a motor vehicle;**
 5 (4) **mortgage payments, rental payments, furnishings,**
 6 **renovations, or improvement expenses for a permanent**
 7 **residence;**
 8 (5) **payments that clearly exceed the fair market value of the**
 9 **item or service purchased; or**
 10 (6) **any other primarily personal purposes; purpose;**

11 by the candidate or by any other person. ~~except as described in~~
 12 ~~subsection (a):~~ **This subsection does not prohibit a candidate or a**
 13 **committee from leasing a vehicle during a campaign if the vehicle**
 14 **will be used for campaign purposes.**

15 (c) Money received as a contribution may be invested by a
 16 committee in an account with a financial institution, savings and loan
 17 association, or credit union, or in any equity account. Any loss resulting
 18 from an investment under this subsection must be reported as a
 19 committee expenditure. Any gain resulting from an investment under
 20 this subsection must be reported as income.

21 SECTION 2. IC 3-9-4-16, AS AMENDED BY P.L.3-1997,
 22 SECTION 196, IS AMENDED TO READ AS FOLLOWS
 23 [EFFECTIVE JANUARY 1, 1999]: Sec. 16. (a) In addition to any other
 24 penalty imposed, a person who does any of the following is subject to
 25 a civil penalty under this section:

- 26 (1) Fails to file with the election division a report in the manner
 27 required under IC 3-9-5.
 28 (2) Fails to file a statement of organization required under
 29 IC 3-9-1.
 30 (3) Is a committee or a member of a committee who disburses or
 31 expends money or other property for any political purpose before
 32 the money or other property has passed through the hands of the
 33 treasurer of the committee.
 34 (4) Makes a contribution other than to a committee subject to this
 35 article or to a person authorized by law or a committee to receive
 36 contributions on the committee's behalf.
 37 (5) Is a corporation or labor organization that exceeds any of the
 38 limitations on contributions prescribed by IC 3-9-2-4.
 39 (6) Makes a contribution in the name of another person.
 40 (7) Accepts a contribution made by one (1) person in the name of
 41 another person.
 42 (8) Is not the treasurer of a committee subject to this article, and



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- 1 pays any expenses of an election or a caucus except as authorized
 2 by this article.
- 3 (9) Commingles the funds of a committee with the personal funds
 4 of an officer, a member, or an associate of the committee.
- 5 (10) Wrongfully uses campaign contributions in violation of
 6 IC 3-9-3-4.
- 7 (11) Violates IC 3-9-2-12.
- 8 **(12) Fails to file a report with the election division in the**
 9 **manner required by IC 3-9-8.**
- 10 **(13) Fails to include the statement in advertising or on**
 11 **materials required by IC 3-9-8-9, if the person is required to**
 12 **file a report of expenditures under IC 3-9-8.**
- 13 (b) This subsection applies to a person who is subject to a civil
 14 penalty under subsection (a)(1), ~~or~~ (a)(2), **or (a)(12)** for filing a
 15 defective report or statement. If the commission determines that a
 16 person failed to file the amended report or statement of organization
 17 not later than noon five (5) days after being given notice under section
 18 14 of this chapter, the commission may assess a civil penalty. The
 19 penalty is ten dollars (\$10) for each day the report is late after the
 20 expiration of the five (5) day period, not to exceed one hundred dollars
 21 (\$100) plus any investigative costs incurred and documented by the
 22 election division. The civil penalty limit under this subsection applies
 23 to each report separately.
- 24 (c) This subsection applies to a person who is subject to a civil
 25 penalty under subsection (a)(1), ~~or~~ (a)(2), **or (a)(12)** for a delinquent
 26 report or statement. If the commission determines that a person failed
 27 to file the report or statement of organization by the deadline prescribed
 28 under this article, the commission shall assess a civil penalty. The
 29 penalty is fifty dollars (\$50) for each day the report or statement is late,
 30 with the afternoon of the final date for filing the report or statement
 31 being calculated as the first day. The civil penalty under this subsection
 32 may not exceed one thousand dollars (\$1,000) plus any investigative
 33 costs incurred and documented by the election division. The civil
 34 penalty limit under this subsection applies to each report separately.
- 35 (d) This subsection applies to a person who is subject to a civil
 36 penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), ~~or~~
 37 (a)(10), **or (a)(13)**. If the commission determines that a person is
 38 subject to a civil penalty, ~~under subsection (a)~~, the commission may
 39 assess a civil penalty of not more than one thousand dollars (\$1,000),
 40 plus any investigative costs incurred and documented by the election
 41 division.
- 42 (e) This subsection applies to a person who is subject to a civil

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1 penalty under subsection (a)(5). If the commission determines that a
 2 person is subject to a civil penalty under subsection (a)(5), the
 3 commission may assess a civil penalty of not more than three (3) times
 4 the amount of the contribution in excess of the limit prescribed by
 5 IC 3-9-2-4, plus any investigative costs incurred and documented by
 6 the election division.

7 (f) This subsection applies to a person who is subject to a civil
 8 penalty under subsection (a)(11). If the commission determines that a
 9 candidate or the candidate's committee has violated IC 3-9-2-12, the
 10 commission shall assess a civil penalty equal to the greater of the
 11 following, plus any investigative costs incurred and documented by the
 12 election division:

13 (1) Two (2) times the amount of any contributions received.

14 (2) One thousand dollars (\$1,000).

15 (g) All civil penalties collected under this section shall be deposited
 16 with the treasurer of state in the campaign finance enforcement
 17 account.

18 (h) Proceedings of the commission under this section are subject to
 19 IC 4-21.5.

20 SECTION 3. IC 3-9-4-17, AS AMENDED BY P.L.3-1997,
 21 SECTION 197, IS AMENDED TO READ AS FOLLOWS
 22 [EFFECTIVE JANUARY 1, 1999]: Sec. 17. (a) In addition to any other
 23 penalty imposed, a person who does any of the following is subject to
 24 a civil penalty under this section:

25 (1) Fails to file with a county election board a report in the
 26 manner required under IC 3-9-5.

27 (2) Fails to file a statement of organization required under
 28 IC 3-9-1.

29 (3) Is a committee or a member of a committee who disburses or
 30 expends money or other property for any political purpose before
 31 the money or other property has passed through the hands of the
 32 treasurer of the committee.

33 (4) Makes a contribution other than to a committee subject to this
 34 article or to a person authorized by law or a committee to receive
 35 contributions in the committee's behalf.

36 (5) Is a corporation or labor organization that exceeds any of the
 37 limitations on contributions prescribed by IC 3-9-2-4.

38 (6) Makes a contribution in the name of another person.

39 (7) Accepts a contribution made by one (1) person in the name of
 40 another person.

41 (8) Is not the treasurer of a committee subject to this article, and
 42 pays any expenses of an election or a caucus except as authorized

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- 1 by this article.
- 2 (9) Commingles the funds of a committee with the personal funds
- 3 of an officer, a member, or an associate of the committee.
- 4 (10) Wrongfully uses campaign contributions in violation of
- 5 IC 3-9-3-4.
- 6 **(11) Fails to file a report with the board in the manner**
- 7 **required by IC 3-9-8.**
- 8 **(12) Fails to include the statement in advertising or on**
- 9 **materials required by IC 3-9-8-9, if the person is required to**
- 10 **file a report of expenditures under IC 3-9-8.**
- 11 (b) This subsection applies to a person who is subject to a civil
- 12 penalty under subsection (a)(1), ~~or~~ (a)(2), **or (a)(11)** for filing a
- 13 defective report or statement. If the county election board determines
- 14 that a person failed to file the **amended** report or a statement of
- 15 organization not later than noon five (5) days after being given notice
- 16 under section 14 of this chapter, the county election board may assess
- 17 a civil penalty. The penalty is ten dollars (\$10) for each day the report
- 18 is late after the expiration of the five (5) day period, not to exceed one
- 19 hundred dollars (\$100) plus any investigative costs incurred and
- 20 documented by the board. The civil penalty limit under this subsection
- 21 applies to each report separately.
- 22 (c) This subsection applies to a person who is subject to a civil
- 23 penalty under subsection (a)(1), ~~or~~ (a)(2), **or (a)(11)** for a delinquent
- 24 report or statement. If the county election board determines that a
- 25 person failed to file the report or statement of organization by the
- 26 deadline prescribed under this article, the board shall assess a civil
- 27 penalty. The penalty is fifty dollars (\$50) for each day the report is late,
- 28 with the afternoon of the final date for filing the report or statement
- 29 being calculated as the first day. The civil penalty under this subsection
- 30 may not exceed one thousand dollars (\$1,000) plus any investigative
- 31 costs incurred and documented by the board. The civil penalty limit
- 32 under this subsection applies to each report separately.
- 33 (d) This subsection applies to a person who is subject to a civil
- 34 penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), ~~or~~
- 35 (a)(10), **or (a)(12)**. If the county election board determines that a
- 36 person is subject to a civil penalty, ~~under subsection (a)~~, the board may
- 37 assess a civil penalty of not more than one thousand dollars (\$1,000),
- 38 plus any investigative costs incurred and documented by the board.
- 39 (e) This subsection applies to a person who is subject to a civil
- 40 penalty under subsection (a)(5). If the county election board determines
- 41 that a person is subject to a civil penalty under subsection (a)(5), the
- 42 board may assess a civil penalty of not more than three (3) times the

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1 amount of the contribution in excess of the limit prescribed by
 2 IC 3-9-2-4, plus any investigative costs incurred and documented by
 3 the board.

4 (f) All civil penalties collected under this section shall be deposited
 5 with the county treasurer to be deposited by the county treasurer in a
 6 separate account to be known as the campaign finance enforcement
 7 account. The funds in the account are available, with the approval of
 8 the county fiscal body, to augment and supplement the funds
 9 appropriated for the administration of this article.

10 (g) Money in the campaign finance enforcement account does not
 11 revert to the county general fund at the end of a county fiscal year.

12 (h) Proceedings of the county election board under this section are
 13 subject to IC 4-21.5.

14 SECTION 4. IC 3-9-8 IS ADDED TO THE INDIANA CODE AS
 15 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 16 JANUARY 1, 1999]:

17 **Chapter 8. Reporting Campaign Expenditures**

18 **Sec. 1. (a) This chapter applies only to a person who makes**
 19 **expenditures of at least one hundred dollars (\$100) in a calendar**
 20 **year.**

21 **(b) This chapter does not apply to a person who is required to**
 22 **file reports of expenditures under IC 3-9-5.**

23 **(c) This chapter applies only to expenditures that advocate any**
 24 **of the following:**

25 **(1) The election or defeat of a clearly identified candidate.**

26 **(2) The approval or defeat of a specific public question.**

27 **(d) This chapter does not apply to any of the following:**

28 **(1) A person who makes an expenditure relating to an election**
 29 **to a local or school board office for which the compensation**
 30 **is less than five thousand dollars (\$5,000) per year.**

31 **(2) A person who makes an expenditure relating to an election**
 32 **for precinct committeeman or delegate to a state convention.**

33 **(e) This chapter does not require the reporting of any of the**
 34 **following:**

35 **(1) An expenditure that is required to be reported as a**
 36 **contribution under IC 3-9-5.**

37 **(2) An expenditure made before ninety (90) days before a**
 38 **nomination date or the date of an election.**

39 **(3) Volunteer personal services provided by an individual.**

40 **Sec. 2. For purposes of this chapter, a candidate is clearly**
 41 **identified if any of the following apply:**

42 **(1) The name of the candidate involved appears.**

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1 (2) A photograph or drawing of the candidate appears.

2 (3) The identity of the candidate is apparent by unambiguous
3 reference.

4 **Sec. 3. For purposes of this chapter, the election or defeat of a**
5 **clearly identified candidate, or the approval or defeat of a specific**
6 **public question, is advocated only if any of the following words are**
7 **used in the communication with reference to the clearly identified**
8 **candidate or the specific public question:**

9 (1) "Elect".

10 (2) "Re-elect".

11 (3) "Vote for".

12 (4) "Cast your ballot for".

13 (5) "Approve".

14 (6) "Retain".

15 (7) "Defeat".

16 (8) "Vote against".

17 (9) "Cast your ballot against".

18 (10) "Reject".

19 (11) A word or phrase synonymous with a word or phrase
20 listed in subdivisions (1) through (10).

21 **Sec. 4. (a) A person who makes an expenditure relating to any**
22 **of the following must file a report required by this chapter with the**
23 **commission:**

24 (1) An election for a state office.

25 (2) An election for a legislative office.

26 (3) The outcome of a public question for or against which the
27 electorate of the whole state may vote.

28 **(b) A person who makes an expenditure relating to any of the**
29 **following must file a report required by this chapter with the**
30 **county election board of each county comprising part of the**
31 **affected election district:**

32 (1) An election for a local office.

33 (2) The outcome of a local public question for or against
34 which the electorate of the affected election district may vote.

35 **Sec. 5. The commission shall prescribe the form of reports**
36 **required by this chapter.**

37 **Sec. 6. (a) A person required to report expenditures under this**
38 **chapter shall complete a report required by this chapter that is**
39 **current as of fourteen (14) days before the nomination date or**
40 **election for which expenditures were made.**

41 **(b) A person may hand deliver or mail a report required by this**
42 **section to the appropriate office. A hand delivered report must be**



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1 received by the appropriate office during regular office hours not
2 later than noon seven (7) days before the nomination date or
3 election.

4 **Sec. 7. (a)** A person required to report expenditures under this
5 chapter shall file a final report that is complete through December
6 31 of the year the person makes expenditures.

7 **(b)** The report required by this section is due not later than noon
8 of the third Wednesday in January of the year following the year
9 covered by the report.

10 **Sec. 8.** A report required by this chapter must include the
11 following information:

12 (1) The full name and complete mailing address of the person.

13 (2) The total value of the reportable expenditures made by the
14 person from January 1 of the reporting year through:

15 (A) the date of the report; or

16 (B) December 31 of the reporting year, if the report is the
17 final report required by section 7 of this chapter.

18 (3) The following information relating to each person to which
19 the reporting person made reportable expenditures that in an
20 aggregate amount exceeded one hundred dollars (\$100):

21 (A) The full name and complete mailing address of the
22 person to which the reporting person made expenditures.

23 (B) The amount, date, and purpose of each expenditure.

24 (4) The following information relating to each candidate for
25 or against whom the person made reportable expenditures
26 that in an aggregate amount exceeded one hundred dollars
27 (\$100):

28 (A) The name of the candidate and the office to which the
29 candidate sought election.

30 (B) The amount, date, and purpose of each expenditure.

31 **Sec. 9. (a)** This section applies to all advertising and materials
32 published or circulated by a person who is required to file reports
33 of expenditures under this chapter.

34 **(b)** Except as provided in subsection (c), the person shall make
35 the following statement in all advertising purchased and on all
36 materials published or circulated with expenditures required to be
37 reported under this chapter:

38 "Money used to present this information to you has been
39 reported by _____ (insert the name of the person
40 required to make the report) to the _____
41 (insert "Indiana Election Commission" or "_____
42 County Election Board", the name of the appropriate county

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1 **election board) as required under Indiana law".**
2 **(c) Subsection (b) does not require a statement on campaign**
3 **items that do not require the statement under IC 3-9-3-2.5.**

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